

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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IN RE: ORTHO EVRA PRODUCTS LIABILITY )  
LITIGATION )

MDL No. 1742

) **SECOND AMENDED SHORT**  
) **FORM COMPLAINT FOR**  
) **ORTHO EVRA PRODUCTS**  
) **LIABILITY LITIGATION**  
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**JURY TRIAL DEMANDED**  
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TRACY JOHNSON

Plaintiff(s),

-against-

JOHNSON & JOHNSON, JOHNSON &  
JOHNSON PHARMACEUTICAL  
RESEARCH & DEVELOPMENT, L.L.C.  
f/k/a R.W. JOHNSON  
PHARMACEUTICAL RESEARCH  
INSTITUTE, and ORTHO-MCNEIL  
PHARMACEUTICAL, INC.,

Defendants  
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**ABBREVIATED SHORT FORM COMPLAINT FOR ORTHO EVRA PRODUCTS**  
**LIABILITY LITIGATION**

1. Plaintiff(s), TRACY JOHNSON, states and incorporates by reference the relevant portions of Plaintiffs' Master Complaint for Individuals on file with Clerk of the Court for the United States District Court for the Northern District of Ohio in the matter entitled IN RE: ORTHO EVRA PRODUCTS LIABILITY LITIGATION, MDL No. 1742. Plaintiff is filing

this short form complaint as permitted by Case Management Order #11 of this Court for cases removed to this district.

2. Plaintiff(s) TRACY JOHNSON is/are resident(s) of SALINA, KANSAS and claims damages as set forth below and Plaintiff Spouse \_\_\_\_\_, is a resident of \_\_\_\_\_, and claims damages as a result of loss of consortium.

3. If this is a wrongful death case:

- a. Plaintiff decedent, \_\_\_\_\_ was a resident of \_\_\_\_\_, and claims damages as set forth below. Plaintiff Decedent died on \_\_\_\_\_.
- b. Plaintiff representative, \_\_\_\_\_, is a citizen and resident of \_\_\_\_\_. Representative Plaintiff was appointed administrator/representative of the Estate of \_\_\_\_\_ [Name of Deceased Plaintiff] on \_\_\_\_\_ [Date of Appointment] by \_\_\_\_\_ [Name of Probate Court]

#### **ALLEGATIONS AS TO VENUE**

4. Venue of this case is appropriate in the FEDERAL District Court of State of KANSAS. Plaintiff states that but for the order permitting direct filing into the Northern District of Ohio pursuant to Case Management Order # 11, Plaintiff would have filed in the FEDERAL District Court of the State of KANSAS. Therefore, plaintiff respectfully requests that at the time of transfer of this action back to the trial court for further proceedings that this case be transferred to the above referenced District Court.

**ALLEGATIONS AS TO INJURIES**

5. Plaintiff used the Ortho Evra birth control patch beginning OCTOBER 2004 (date) until NOVEMBER 11, 2006 (date).

6. On or about NOVEMBER 11, 2006 (date), Plaintiff suffered the following injur(ies) as a result of her use of the Ortho Evra birth control patch: DEEP VEIN THROMBOSIS; and Pain and suffering of the following parties entitled to make each claims under the laws of the state that will govern this case PLAINTIFF TRACY JOHNSON UNDER THE LAWS OF THE STATE OF KANSAS.

7. The Plaintiff(s) has suffered injuries as a result of her use of the Ortho Evra birth control patch manufactured by defendant as shall be fully set forth in Plaintiff's Fact Sheet and other responsive documents provided to the defendants and are incorporated by reference herein.

8. At the time of her injuries, caused by the Ortho Evra birth control patch, the Plaintiff resided at 540 W. STATE ST. APT 1, SALINA, KANSAS 67401.

[Address, City, State, Zip]

9. The defendants by their actions or inactions, proximately caused Plaintiff's injuries.

10. As a result of the injuries that plaintiff sustained, she/they are entitled to recover compensatory and punitive damages.

**ALLEGATIONS AS TO DEFENDANTS**

11. The entities named as Defendants in the Master Complaint and the allegations with regard to them thereto in the Master Complaint are herein adopted by reference.

**SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

12. The following claims and allegations asserted in the Master Complaint and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

- x**   INTRODUCTION;
- x**   NATURE OF THE ACTION;
- x**   PARTIES, JURISDICTION AND VENUE;
- x**   FACTUAL ALLEGATIONS;
- x**   FIRST CAUSE OF ACTION AS AGAINST THE DEFENDANTS (NEGLIGENCE);
- x**   SECOND CAUSE OF ACTION AS AGAINST THE DEFENDANTS (NEGLIGENCE PER SE);
- x**   THIRD CAUSE OF ACTION AS AGAINST THE DEFENDANTS (STRICT PRODUCTS LIABILITY – DEFECTIVE DESIGN);
- x**   FOURTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT);
- x**   FIFTH CAUSE OF ACTION AS AGAINST THE DEFENDANT (STRICT PRODUCTS LIABILITY – FAILURE TO WARN);
- x**   SIXTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (BREACH OF EXPRESS WARRANTY);
- x**   SEVENTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (BREACH OF IMPLIED WARRANTIES);
- x**   EIGHTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (FRAUDULENT MISREPRESENTATION);
- x**   NINTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (FRAUDULENT CONCEALMENT);
- x**   TENTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS (NEGLIGENT MISREPRESENTATION);
- x**   ELEVENTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS

(FRAUD AND DECEIT);

\_\_\_\_ TWELFTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS  
(UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER STATE  
LAW);

  **x**   THIRTEENTH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (MISREPRESENTATION BY OMISSION);

  **x**   FOURTEENTH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (CONSTRUCTIVE FRAUD);

\_\_\_\_ FIFTEENTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS  
(NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS);

\_\_\_\_ SIXTEENTH CAUSE OF ACTION AS AGAINST THE DEFENDANTS  
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS);

  **x**   SEVENTEENTH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (GROSS NEGLIGENCE/MALICE);

\_\_\_\_ EIGHTEENTH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (LOSS OF CONSORTIUM);

\_\_\_\_ NINETEENTH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (PER QUID);

\_\_\_\_ TWENTIETH CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (WRONGFUL DEATH);

\_\_\_\_ TWENTY-FIRST CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (SURVIVAL ACTION);

\_\_\_\_ TWENTY-SECOND CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (MEDICAL MONITORING);

  **x**   TWENTY-THIRD CAUSE OF ACTION AS AGAINST THE  
DEFENDANTS (PUNITIVE DAMAGES);

PLAINTIFF(S) ASSERT(S) THE FOLLOWING STATE CAUSES OF ACTION:

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For the equitable relief requested;
2. For compensatory damages requested and according to proof;
3. For punitive or exemplary damages against Defendants;
4. For all applicable statutory damages of the state whose laws will govern this action;
5. For declaratory judgment that Defendants are liable to Plaintiffs for all evaluative, monitoring, diagnostic, preventative, and corrective medical, surgical, and incidental expenses, costs and losses caused by Defendants' wrongdoing;
6. For medical monitoring, whether denominated as damages or in the form of equitable relief;
7. For an award of attorneys' fees and costs;
8. For prejudgment interest and the costs of suit; and
9. For such other and further relief as this Court may deem just and proper;

**JURY DEMAND**

Plaintiff(s) hereby demand a trial by jury as to all claims in this action.

Date: October 21, 2008.

Respectfully submitted,

Counsel for Plaintiff(s)

/s/ Janet G. Abaray

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